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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/061,688	02/01/2002	Mariano P. Regala IV	042390P13093	9653

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EXAMINER

TRINH, MINH N

ART UNIT	PAPER NUMBER
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3729

DATE MAILED: 04/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/061,688	Applicant(s) REGALA ET AL.	
	Examiner Minh Trinh	Art Unit 3729	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendment filed on 2/9/2004 has been fully considered and made of record.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. The specification is objected to because it is inconsistent with the claim languages. This objection is set forth in prior Office Action, paragraph 3, dated 11/4/2003.
4. Claims 1-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. This rejection is set forth in prior Office Action, paragraph 5, dated 11/4/2003.
5. Claims 1-12 and 14, as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Kuno et al (US 5,753,538). This rejection is set forth in prior Office Action, paragraph 8, dated 11/4/2003.

Response to Arguments

6. Applicant's arguments filed on 2/9/2004 have been fully considered but they are not persuasive.

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a) The specification is objected to for reasons set forth in prior Office Action. It is noted that the language from the specification should be consistent with the claim languages. For example: it is still uncertain whether the "upper and the lower degater halves" as described in applicants' specification are represented the "first and second degater halves" as recited in the claims. Furthermore, the configurations "upper" and "lower" could be in the order where the second =the upper, and where the first =the lower. Therefore, applicants' arguments are not found to be persuasive.

b) Applicants' arguments regarding the 112 first has been considered but they are not persuasive because the claim language refers to "a separator" and this feature has not being found in the specification and/or the drawings. Note that the described of pin 48 (see under the "Remarks", page 7) are not found to be persuasive.

c) Turning to the art rejections, Applicants' arguments that Kuno does not teach "components that are pivotally secured to one another". The Examiner disagrees, in that applicant are referred to related Fig. 14 of Kuno which depicts the components are pivotally secured to on another. Therefore, the feature i.e. components that are pivotally secured to one another as described above are met by Kuno. Furthermore, the term "pivot" as defined by The Webster's Dictionary, Third College Edition as to mount on, which also read on the components are being pivotally secured to one another.

d) Noted that Applicants arguments do not clearly point out the patentable novelty which they think the claims present in view of the state of the art disclosed by the references cited or the rejections made. Further, they do not show how the amendments avoid such references or rejections.

In light of the above, Applicants arguments with respect to Kuno is moot.

7. Claim 13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, first and second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. The reasons for indication of allowable subject matter can be found in prior Office Action, paragraph 10, dated 11/4/2003.

Interviews After Final

8. Applicants note that an interview after a final rejection will not be granted unless the intended purpose and content of the interview is presented briefly, in writing (the agenda of the interview must be in writing). Such an interview may be granted if the examiner is convinced that disposal or clarification for appeal may be accomplished with only nominal further consideration. Interviews merely to restate arguments of record or to discuss new limitations which would require more than nominal reconsideration or new search will be denied. See MPEP 714.13 and 713.09.

Conclusion

9. Please provide numeral references to the claimed limitations as well as support in the disclosure (i.e., page and line numbers and reference number associated with from the drawings) for better clarity. Applicant requires pointing out the support for any amendment made to the disclosure and the claims. See 37CFR 1.111 and section 2163.06 of the MPEP.

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10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh Trinh whose telephone number is (703) 305-2887. The examiner can normally be reached on Monday -Thursday 8:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (703) 308-1789. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Minh Trinh
Examiner Group 3700

mt
4/8/2004